

JDB:SEF

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M-10-566

- - - - -X

UNITED STATES OF AMERICA

FILED UNDER SEAL

- against -

AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
ARREST WARRANT

ROBERT SPATAFORA,

Defendant.

(18 U.S.C.
§§ 1512(a)(2)(B)(i) and
1512(b)(3))

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS:

JOHN P. BURNS, being duly sworn, deposes and states that he is a Special Agent of the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

Upon information and belief, in or about and between March 2010 and May 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ROBERT SPATAFORA did knowingly and intentionally use the threat of physical force toward Jane Doe, with the intent to cause and induce Jane Doe to withhold testimony, records, documents and other objects from an official proceeding.

(Title 18, United States Code, Section
1512(a)(2)(B)(i)).

Upon information and belief, in or about and between March 2010 and May 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ROBERT SPATAFORA did knowingly and intentionally

use intimidation and threats toward Jane Doe, with the intent to delay, or prevent the communication to a law enforcement officer of the United States, to wit: Special Agents of the Federal Bureau of Investigation, of information relating to the commission or possible commission of a Federal offense, to wit: the murder of Peter Ghattas and related crimes.

(Title 18, United States Code, Section 1512(b)(3)).

The source of your affiant's information and the grounds for his belief are as follows:

1. I have been a Special Agent with the FBI for approximately five years. I am currently assigned to an FBI squad that investigates the Luchese organized crime family of La Cosa Nostra ("LCN"). In the course of this and other investigations, I have conducted physical surveillance, debriefed cooperating defendants and confidential informants and secured relevant information using other investigative techniques. I am familiar with the facts and circumstances of this case as a result of my personal investigation, interviews with witnesses, review of telephone conversations intercepted pursuant to court-authorized wiretaps, and conversations with other law enforcement agents.

2. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not set forth every fact resulting from the investigation. In addition,

statements attributed to individuals in this affidavit are described only in sum and substance and in part, and summaries of recorded conversations are based on draft transcripts of those conversations, which are subject to revision.

THE MURDER OF PETER GHATTAS

3. On September 24, 2003, a 35-year-old man named Peter Ghattas ("Ghattas") was discovered shot to death outside Rob's Pro Tow, an auto repair shop located at 556 Rosevale Avenue, Ronkonkoma, New York. At the time of Ghattas' murder and thereafter to the present, ROBERT SPATAFORA owned and operated Rob's Pro Tow. At the time of the murder, SPATAFORA employed Ghattas as a tow truck operator.

4. For a period of time, Ghattas was a confidential source for the Suffolk County Police Department ("SCPD").¹ Approximately one week before his death, Ghattas told members of the SCPD that SPATAFORA had questioned him about his interactions with law enforcement. Ghattas said that he had admitted to SPATAFORA that he had been providing law enforcement with information about criminal activity in Suffolk County.

5. On or about December 10, 2004, SCPD detectives investigating the Ghattas murder interviewed SPATAFORA at his auto repair shop. During the interview, SPATAFORA told

¹ In September 2002, Ghattas was convicted, upon a plea of guilty, in Suffolk County Court of attempted burglary in the second degree, and sentenced to five years' probation.

detectives, in sum and substance, that SPATAFORA knew Ghattas had been cooperating with law enforcement because Ghattas told everyone what he was doing. SPATAFORA suggested Ghattas may have been killed either as a result of Ghattas' involvement with other individuals committing burglaries, or as a result of a romantic relationship. SPATAFORA's girlfriend, Jane Doe, was present during the interview.

6. On or about March 30, 2010, the SCPD arrested Jane Doe on an active Suffolk County District Court bench warrant. Jane Doe was held overnight, during which time she was questioned by SCPD detectives.

7. On or about March 31, 2010, at approximately 11:48 a.m., the SCPD, acting pursuant to a court-authorized wiretap, intercepted an incoming call on (516) 903-2345, a phone registered to Rob's Pro Towing Inc., and used by SPATAFORA, from (516) 983-3118, a phone registered to an individual I believe to be SPATAFORA's former wife. During the conversation, which I have reviewed, SPATAFORA and his former wife discussed Jane Doe's arrest and questioning the prior evening:

SPATAFORA: [They were] asking her about Pete, all crazy shit, saying they know what I do, they're on to me. So if you know what [I] do, what are you asking her for, and I don't do nothing, so what the fuck are you talking about? It's just sickening.

Hickey: Now who was this? The detectives?

SPATAFORA: Yeah. On the murder case.

SPATAFORA subsequently told his former wife that the detectives had told Jane Doe that they "follow me everywhere and have my phones tapped." Later in the conversation, SPATAFORA said: "Obviously, so they figured they'd pressure her while she's there, but I don't do nothing, like, as if she's gonna turn around and say yeah, Rob murdered Pete, like it's so fucking retarded. Like give me a fucking break." Based upon my review of this recording and my participation in this investigation, I believe that SPATAFORA's reference to "Pete" was a reference to the murder victim, Peter Ghattas.

8. In or about April 2010 and May 2010, following the SCPD's arrest and questioning of Jane Doe, the undersigned, together with other agents of the FBI and officers of the SCPD, interviewed certain individuals believed to have information about the Ghattas murder and related crimes. SPATAFORA quickly became aware of the FBI's investigation. For example, on the afternoon of April 28, 2010, the undersigned, together with other agents, conducted an interview of Nicky Motta ("Motta"). Immediately following the interview of Motta, the SCPD intercepted a call from Jane Doe to SPATAFORA. Jane Doe told SPATAFORA: "Do not come back here. Call Nicky Motta right away and meet him somewhere. They just went for him so call him right

now."

9. During a call to his former wife later that evening, SPATAFORA said the following to Motta and another individual who were standing in the vicinity of the telephone: "He had me shittin' like as if they fuckin' nailed me for fuckin' ten murders."

10. In a call immediately thereafter, Motta can be heard in the background, stating, "Now they want to link it . . . [UI] that happened at his shop." SPATAFORA responded: "100 percent not. I can guarantee that."

THE WITNESS TAMPERING

11. On or about May 11, 2010, the SCPD intercepted a series of telephone calls between SPATAFORA and Jane Doe in which SPATAFORA told Jane Doe, in sum and substance, that he believed she was cooperating with the FBI's investigation. SPATAFORA went on to threaten and intimidate Jane Doe, including by telling her, in substance, that he would fire her from her job at his automotive repair shop, that he would throw her out of her home, and that he would murder her and a minor child. For example, the following is an excerpt from a conversation between SPATAFORA and Jane Doe at approximately 12:56 p.m. on May 11:

SPATAFORA: Kim, that was it, we read between the lines. I don't want to tell you how many shots went through her chest. Dial my mother.

Jane Doe: See how stupid you get?

SPATAFORA: Because you're pushing me Kim, and you're winning.

Jane Doe: No I'm not.

SPATAFORA: You're winning. We all knew what it was. The situation was closed. You wanted to tell them.

Jane Doe: Then why would you ask me 'where's my cordless?' Why would you ask me that?

SPATAFORA: OK, but then you refreshed my memory. But you wanted to, you physically wanted them to hear that I smashed it, you wanted them to know that I'm violent.

Jane Doe: Rob, would you stop?

SPATAFORA: You wanted them to know I'm a violent man, so you said this.

Jane Doe: Oh yeah, they're on the lines, I forgot, they, they listen on the phones I know.

SPATAFORA: They are, and you're loving that you're doing this.

Based upon my participation in the investigation, I am aware that Jane Doe's first name is not "Kim." Instead, Kim is the name of Jane Doe's deceased sister, who died in August 1996 after being shot by her husband. Based upon the context of the conversation and my review of other phone calls between SPATAFORA and Jane Doe, I believe SPATAFORA was referring to Jane Doe as "Kim" in order to threaten her that she would end up like her deceased sister because SPATAFORA believed she was cooperating with the FBI. Indeed, later in the same conversation, SPATAFORA told Jane

Doe, "Kim, did you ever think when he put the first round in her why he did so many after that? Because of her mouth."

12. In a subsequent portion of the same phone call, SPATAFORA told Jane Doe the following:

Got 'em right where they want it. We're ready, I'm ready to do this. I got in my head, I'm ready to go away. But when I come there today, I told you, if you fucked with me today it was over right? I'm not . . . I wasn't gonna tell you this, but when I come there today, you're gone for good. You walked in yesterday on your own. This time you're gone for good. And when I get there, now they got you 'cause now they think they can pressure you, but I don't do nothing, so why do you think I'm throwing you out? Let them pressure you, 'cause I don't do nothing. You're not gonna win over me and neither is the FBI, 'cause I don't do nothing. I'm a legit guy, and when I get there, I'm firing you, just so you know.

Later in the same conversation, SPATAFORA further threatened Jane Doe as follows:

Fuck you Kim, fuck you Kimber, fuck you, fuck you Kimber, fuck you Kimber, fuck you Kim, rest in peace, fuck you Kim, rest in peace. Shotgun blast, shotgun blast, fuck you Kim, shotgun blast, fuck you Kim, shotgun blast, dead bitch, blood everywhere, fuck you Kim, get me Julie now, you're fucking gone now.

13. In a conversation the same day at approximately 2:07 p.m., SPATAFORA told Jane Doe that "Kim's dead. Now fuckin' your little boy's going. . . . I'm gonna fucking kill somebody, you got these . . . You got these Ralles going, you got these Ralles going." Based upon my review of other conversations between SPATAFORA and Jane Doe, I believe "Ralles" is a term

SPATAFORA uses to refer to "federales," which is a term he uses for federal law enforcement.

14. In a call several minutes later, SPATAFORA told Jane Doe the following: "They got, listen, they got enough information today to come right now. They got enough information to come right now. You want to give 'em more? Let's stay on the phone and let's cooperate, but I'm gonna tell you, it's gonna get bloody."

15. Later in the same conversation, SPATAFORA made other statements indicating his belief that Jane Doe was providing information about him to law enforcement authorities. For example, the following is an excerpt from the conversation:

SPATAFORA: You gotta be working for them, because you're fucking telling them shit.

Jane Doe: I don't tell anybody anything. I don't do anything wrong. I work my fucking balls off.

SPATAFORA: 'I don't do anything wrong.' You're building up a case. You're making them build a case on me like I'm a monster. You're building a case like I'm a monster.

Jane Doe: Every fucking day, every fucking day of my life. . . .

SPATAFORA: You're weak Kim. You're weak. You're crying on the case for them Kim. You're crying for them Kim.

Jane Doe: . . . and all I get done, I get yelled at. I work and do everything. . . .

SPATAFORA: You're giving them everything. You're crying on the case for them, Kim. You're giving them everything they want Kim. Are you working for them?

16. In a subsequent call, Jane Doe asked SPATAFORA "Why are you treating me like this?" SPATAFORA responded: "You're pulling me away from my kids, you fucko. You're telling them everything over the phone, fucko." SPATAFORA added: "They play this tape in the jury, it's over. Just today it's over." Later in the same conversation, SPATAFORA said: "Dana, you're testifying against me with the FBI. . . . There's be no other way you'd talk like this over the phone." Thereafter, in response to Jane Doe's statement, "We're supposed to be a team together," SPATAFORA responded: "You're not on my team no more. The FBI's your team you fuckin' hater."

17. In an immediately subsequent conversation, SPATAFORA told Jane Doe: "Just like Pete died for them. Now you can go work for them. And I'll see you on the stand kiddo." Based upon my review of this conversation, and my participation in this investigation, I believe that SPATAFORA's statement "Pete died for them," was a reference to the fact that Ghattas was murdered for cooperating with law enforcement authorities.

18. Later in the same conversation, SPATAFORA said the following: "I called my lawyer. It's over. I told him everything. I told him what you said. And he said, 'This is your girlfriend of 16 years?' He told me, get you out of

my office like a lightening bolt. That's what he told me. And that's who I'm listening to. . . . You're giving me up to the feds, asshole." SPATAFORA then said: "If you were loyal, you wouldn't have signed a statement to the federales on me." He added: "Listen to me. A friend does not put me in jail. A friend does not do that."

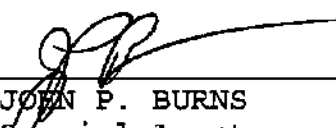
19. In a phone call with Jane Doe that followed immediately thereafter, SPATAFORA said: "You're going against me. Trish and Dawn wouldn't go against me. 'Cause they know, they know right now, Trish and Dawn if they go against me, they know I'm giving the FBI something else they want. Just like I said I'm going for that little boy. They got it on tape. Now they can think I'm a rapist. They can think I'm a murderer. Trish and Dawn wouldn't do that. . . . A friend does not bury a friend with the federal government." Thereafter, SPATAFORA said, "I think you're a rat. . . . You already gave them enough information on me to lock me up for years."

20. In a call with Jane Doe later on the evening of May 11, SPATAFORA again referred to Jane Doe as a "rat," and told her to "run run run run." He subsequently said: "I'm about to fucking blow your brains out, okay? Now you got me on tape."

SEALING

21. I request that this affidavit and an arrest warrant issued in connection therewith be sealed until further order of the Court. Public disclosure of this affidavit prior to SPATAFORA's arrest would endanger Jane Doe and otherwise jeopardize this investigation.

WHEREFORE, your affiant respectfully requests that a sealed arrest warrant be issued for the defendant ROBERT SPATAFORA so that he may be dealt with according to law.


JOHN P. BURNS
Special Agent
Federal Bureau of Investigation

Sworn to before me this
17th day of May, 2010

HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK